

August 22, 2008

Maine Milk Commission Special Meeting Minutes
Deering Building, Room 233
Augusta, Maine 04333

Notices for the August 22, 2008 meeting were distributed to Commission members, intervenors and other interested parties July 18 and 21, 2008 and sent to the Secretary of State's Office for posting on July 21, 2008.

Commission Present: Chair, Michael Wiers, Colon Durrell, Richard Cook, John Joseph Jr. and Tim Drake, *ex-officio*.

Commission Absent: None

Department Officials: Commissioner Seth Bradstreet III

Staff Present: Stanley Millay, Executive Director, Audrey Shorty, Resource Administrator and Carol Gauthier, Office Associate.

Legal Counsel: Amy Mills not present

Intervenors Present: John Blake, H.P. Hood, Inc., Tom Brigham Oakhurst Dairy John Economy Garelick Farms of Maine and Julie-Marie Bickford Executive Director, Maine Dairy Industry Association (MDIA).

Others Present: Dale Cole and Fred Hardy from MDIA; Walter Fletcher, dairy farmer; Lisa Bragg and George Criner from the University of Maine; Robert Wellington from Agri-Mark Cooperative and Ruby Hardy, and Katherine Musgrave, public attendees.

Chairman Wiers called the meeting to order at 1:40 pm.

Chairman Wiers recognized Commissioner Bradstreet.

Commissioner Bradstreet addressed the Commission and thanked Stan Millay for 37 years of service to the Department of Agriculture and to the Maine Milk Commission.

Chairman Wiers called a public hearing to order to take testimony on Chapter 2 Hearing Procedures at 1:45 pm.

Julie-Marie Bickford supported the proposal to repeal this chapter and pointed out that the intervenor section was already replaced by the notices that are sent to interested parties.

No other testimony was received. Chairman Wiers announced that a written comment period was open through September 5, 2008.

Chairman Wiers closed the hearing and opened the regular meeting at 1:50 pm.

Agenda Item 1: Minutes: John Joseph made a motion to accept the minutes of the July 18, 2008 meeting. Richard Cook seconded. Motion passed 4-0.

Agenda Item 2: Amy Mills, Assistant Attorney General: No report.

Agenda Item 3: Minimum Prices: Stan Millay reported that there is a prevailing premium of \$1.10/cwt on Class I for September 2008 reported by Dairy Marketing Services (DMS) and Agri-Mark Cooperative. In addition to this premium, both Agri-Mark and DMS reported that an additional \$0.43/cwt for milk that comes from producers who do not treat their cows with the rBST hormone will be in affect. Federal Order One Class I price for September is \$20.90. He explained that a schedule was prepared using this information plus a producer cost of production adjustment (COPA) of \$1.23/cwt. He stated that this price schedule was for information purposes and that the Commission was not bound to it, and should make their pricing determination after hearing testimony. He went on to explain that the \$0.43/cwt. rBST free payment was a reduction from \$0.75/cwt. that had been prevailing for sometime prior to last month. He said that Mr. Wellington from Agri-Mark Cooperative was present and might be able to provide further information.

Bob Wellington said that both Agri-Mark Cooperative and Dairy Marketing Services (DMS) were still going to bill their customers at \$0.75/cwt. but offer a credit of \$0.32/cwt. He said that the idea was to move the rBST free payment back to \$0.75/cwt. at some point in the future if conditions permit.

He went on to say that cheese prices were volatile and dependant on the world market for milk powder and butter, the strength of the US Dollar and milk supply. He explained that Class I customers in the Northeast had forced the reduction in the rBST premium.

Colon Durrell asked if the non-use of rBST would affect milk supply by reducing it.

Bob Wellington replied that it might have limited supply but does not seem to have made a big difference in price.

Fred Hardy handed out a copy of a news article from the Milkweed publication that reported record profits for Dean Foods. He went on to say that he believed some of that profit came from forcing a lower premium for non-use of rBST onto producers.

Dale Cole pointed that there is an additional hauling charge of \$0.19/cwt. added to some producers. He referred the retail store milk price survey in the informational packet that showed that the major retailers in Maine had not reduced their retail mark-up last month when the minimum prices were reduced by the Commission. He said the pricing structure is out of step. He said the retailers were free to increase prices anytime they wanted. He pointed out that the extra 16 cent per gallon that the retailers gave themselves was equal to \$1.85/cwt. He said that this money would go a long way with producers in helping with their costs. He said there should be a way to extract money like this from the market in order to help producers.

Bob Wellington told the Commission that there had been a lot of pressure had been applied by the Class I customers to reduce the rBST premium and stated that there was not much the handlers could do to stop it. He said that his cooperative is doing all that they can to get the maximum out of the market for their members.

Chairman Wiers referred to the milk price survey and pointed out the amount over minimum was something the supermarkets had done and that the Commission has no authority over how much retailers can make their margins above the minimum price set by the Commission.

He went to say that he believes that there is a limit to how high the Commission can set the COPA before impacting the marketplace between Maine and outside of Maine. He stated that Cumberland Farms recent decision to buy milk from outside of Maine could be an example of a factor in this case. He asked Bob Wellington if he had any ideas on where that limit might be.

Bob Wellington responded saying that it was a hard question to answer. He said the proof is in when a company like Cumberland Farms makes a change; but by then it is likely too late to do anything about it. He said that he believed that the Commission was acting fairly and had brought balance to their pricing decisions.

Fred Hardy said that the rBST issue was consumer driven. He said consumers were willing to pay more for milk if they knew the money was going to helping the farmers.

Chairman Wiers said he believed that many consumers were looking at prices and buying based on that. He said he believed some consumers were mindful of producers.

Dale Cole said he was alarmed that someone took 16 cents per gallon over the minimum price for the month of August and the producers got none of it. He wondered where that money went. He said that according to the monthly milk price surveys Wal-Mart in Brewer never did go down to the minimum price as did Hannaford and Shaw's. He said it appeared they got a tremendous amount of money from consumers during a time of high costs for producers. He said it is just amazing that the three largest retailers in Maine had essentially the same pricing structure over the Commission minimum prices in August.

John Joseph made a motion to set the cost of production adjustment at \$1.35/cwt. and adopt schedule #09-08 that included a \$20.90/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.53/cwt. as prevailing in neighboring states, plus \$0.93/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$24.91/cwt. Colon Durrell seconded.

Tom Brigham asked the Commission to look at Bob Wellington's latest milk price forecast that was included in the information packet. He said the blend numbers for the rest of the year did not look as gloomy as some people were predicting.

Julie-Marie Bickford said the forecast was down from 2007 while producer costs are higher. Producers need to recover their costs in order to survive.

Motion passed 4-0.

Agenda Item 4: Maine Monthly Price Survey: The Commission reviewed the Maine price survey for August 2008 which included prices for Augusta and Bangor and the IAMCA price survey for June and July.

John Joseph asked if anyone knew why retailers had chosen to go above the minimums after the past few months of keeping the prices at or near the minimum price set by the Commission.

Stan Millay replied that he believed it was a move by the larger retailers to make more profit. He said he believed it was too much of a coincidence that Hannaford, Shaw's and Wal-Mart had basically the same mark-up over the retail minimum price. He said that Wal-Mart Brewer had not dropped their retail prices as has most other major retail stores, making that store one with some of the highest retail milk prices in the state. He went on to say that the Augusta, Brunswick, Auburn and Newport Wal-

Marts were selling at the minimum for August then they started going above the minimums along with Hannaford and Shaw's.

Julie-Marie Bickford wondered if the trend was the same in other states.

George Criner asked about the Vermont program of premiums to help producers.

Bob Wellington told the Commission that the Vermont program was different from Maine's. He said Vermont cannot do what Maine does because they have different circumstances.

Agenda Item 5: Next Scheduled Meetings:

- September 19, 2008 Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- October 17, 2008 Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- November 21, 2008, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- December 19, 2008, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

Agenda Item 6: Other:

1. **Milk Commission Budget:** The Commission reviewed the latest budget summary.
2. **Cost of Production Study:** Lisa Bragg provided a handout that gave an overview of where she is in the study.
3. **Milk Promotions:** Stan Millay outlined for the Commission a milk promotion being offered by General Mills that gives a \$1.00 off coupon on non-brand specific organic milk. After some discussion, the Commission determined the offer to be consistent with Commission policy on coupons.
4. **Dealer Cost and Accounting System:** George Criner stated that he will have a proposal with a plan that would include a study of this issue and how it impacts the dealer cost of processing model. He said that he will work with Amy Mills to ensure that the plan will meet Milk Commission Statutes.
5. **Chapter 2 Hearing Procedure:** Stan Millay reported that there is a comment period open until September 5 on Chapter 2 that the hearing earlier was held on. He said the Commission would need to review any testimony received and then vote to take appropriate action. In this case, to repeal the rule if there is no compelling reason not to.

Chairman Wiers reported that there was a lot of valuable information at IAMCA meeting some of the Commission members attended in Toronto and found it to be well worth attending.

He went on to say that he was sad to see Stan Millay retire. He said he thought Stan had done a good job for the Commission and said he would be missed. On behalf of the Commission, Chairman Wiers congratulated Stan and offered best wishes.

Agenda Item 7: Executive Session: The Commission did not go into Executive Session.

Adjourned: 3:10 p.m. (80 minutes).

Stanley Millay, Executive Director, Maine, Milk Commission signing off.